



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

EPA-HQ-RCRA-2011-0524 [FRL-9703-2]

RIN 2050-AG71

Polychlorinated Biphenyls (PCBs): Revisions to Manifesting Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The Environmental Protection Agency (“EPA” or “the Agency”) is issuing this proposed rule to update and clarify several sections of the Polychlorinated Biphenyl (PCB) regulations associated with the manifesting requirements, which uses the Resource Conservation and Recovery Act (RCRA) Uniform Hazardous Waste Manifest, under the Toxic Substances Control Act (TSCA). Today’s changes are to match, as much as possible, the manifesting requirements for PCBs under TSCA to the manifesting requirements for hazardous waste under RCRA, of which the regulatory changes to implement the Uniform Hazardous Waste Manifest form were promulgated on March, 4, 2005.

DATES: Written comments must be received by **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2011-0524, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- Email: *rcra-docket@epa.gov* and *noggle.william@epa.gov*. Attention Docket ID No. EPA-HQ-RCRA-2011-0524.
- Fax: 202-566-9744. Attention Docket ID No. EPA-HQ-RCRA-2011-0524.
- Mail: RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Attention Docket ID No. EPA-HQ-RCRA-2011-0524. Please include a total of 2 copies.
- Hand Delivery: Please deliver 2 copies to the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-RCRA-2011-0524. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in

the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the HQ-Docket Center, Docket ID No EPA-HQ-RCRA-2011-0524, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: William Noggle, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, (MC: 5304P), 1200 Pennsylvania Avenue, NW, Washington, DC, 20460, Phone: 703-347-8769; or by e-mail: noggle.william@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Why is EPA Issuing This Proposed Rule?
- II. Does This Action Apply to Me?
- III. Statutory and Executive Order Reviews

I. Why is EPA Using This Proposed Rule?

This document proposes a number of revisions to 40 Code of Federal Regulations (CFR) part 761 of the PCB regulations. In the “Rules and Regulations” section of this Federal Register, EPA is making these changes as a direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action, including our reasons to all of the specific amendments, in the preamble to the direct final rule. Additionally, the amendments to the regulatory text for this proposed rule can also be found in the direct final rule. If we receive no adverse comment on any of the changes we are promulgating today, we will not take further action on this proposed rule. If, however, we receive such comment, we will publish a timely withdrawal in the Federal Register informing the public that these amendments will not take effect, and the reason for such withdrawals. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. EPA will address public comments in any subsequent final rule. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does This Action Apply to Me?

The discussion of the potentially affected entities by this proposed rule can be found in the preamble to the direct final rule.

III. Statutory and Executive Order Reviews

For a complete discussion of all the administrative requirements applicable to this action, see the direct final rule in the “Rules and Regulations” section of this *Federal Register*.

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s rule on small entities, small entity is defined as: (1) a small business that is primarily engaged in hazardous waste treatment and disposal as defined by NAICS code 562211, with annual receipts of less than 12.5 million dollars (based on Small Business Administration size standards); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today’s proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial

number of small entities. This rule merely updates the existing regulations for manifesting PCB wastes to match the existing Uniform Hazardous Waste Manifest form. Once updated, the regulations will match what is currently being conducted by industry.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Manifest, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: August 17, 2012

Lisa Feldt,
Acting Assistant Administrator,
Office of Solid Waste and Emergency Response.

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